## REMARKS AND ARGUMENTS

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-20, 27 and 28 are presently pending. Claims amended herein are 1, 13, 14, 17, 27 and 28. No claims are added, withdrawn or cancelled herein.

### Claim Amendments

Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 13, 14, 17, 27 and 28 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Support for the amendments to claims 1, 13, 14, and 27 is found in the specification at least at p. 9 line 13 to p. 10 line 3, and p. 10 line 11 to p. 11 line 19. These amendments are fully supported by Application and therefore do not constitute new matter.

## SUBSTANTIVE MATTERS

### Claim Rejections under 35 USC § 102 and/or §103

The Examiner's rejections are based upon *Mohler*, US Patent No. 5,506,872 ("Mohler"). The Examiner rejects claims 1-12, 17-20 and 27-28 under § 102. For the reasons set forth below, the Examiner has not shown that the cited reference anticipates the rejected claims.

In addition, the Examiner rejects claims 13-16 under § 103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

Accordingly, Applicant respectfully requests that the § 102 and/or § 103 rejections be withdrawn and the case be passed along to issuance.

## Anticipation Rejections

Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim. Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.

## Based upon Mohler

The Examiner rejects claims 1-12, 17-20 and 27-28 under 35 U.S.C. § 102(b) as being anticipated by Mohler. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

### *Independent Claim 1*

Applicant submits that Mohler does not anticipate this claim because it does not disclose the following elements as recited in this claim (with emphasis added):

- "a message transmittal unit configured to automatically enable a *plurality* **of notification messages** to be **generated across multiple user specified media** and serially sent to a *plurality* **of locations** in response to said capacity calculator determining that the amount of space occupied by said one or more messages exceeds a predetermined threshold"

- "wherein a notification message is sent to a subsequent one of the plurality of locations if said notification message **has not been received and** *responded to by an authorized user* at a previous one of the plurality of locations"

The Examiner indicates (Action, p. 2-3) the following with regard to this claim:

3. It is noted that the claims merely recite, *'enable one or more notification messages to be generated and serially sent to a plurality of locations ... wherein said one or more notification messages are sent to one of the plurality of locations"*

The examiner interprets this limitation merely as 'enabling one notification message and serially sent(one at a time) to one of the plurality of locations' and hence is able to read on the prior art of record due to its broad scope. The term 'serially sent' is interpreted as sent 'one at a time' and not sending multiple notification messages to multiple locations as argued. Further amendment is necessary to read away from the prior art of record as noted below.

Applicant respectfully submits that Mohler fails to disclose "a **plurality** of **notification messages** to be generated **across *multiple user specified media*** and **serially sent to a *plurality* of locations**," as presently recited in this claim.  Mohler merely describes cascading out-calling "so that a whole sequence of **numbers** is contacted in series until a call actually gets through."  See Mohler at Col. 6 lines 28-31. While "[t]he targets for these out-calling messages could be a plurality of messaging systems; for example, fax, voice, electronic mail, paging, etc.," Mohler still does not disclose enabling the cascading of **multiple-media messages**.  Indeed, only telephone numbers are cascaded, not a plurality of notification messages generated across multiple user specified media, as recited in the claim at issue.

In addition, Mohler also fails to disclose "wherein a notification message is sent to a subsequent one of the plurality of locations if said notification message **has not been received and responded to *by an authorized user*** at a previous one of the plurality of locations."  As discussed in the present Application (at p. 9 line 13 to p. 10 line 3), this feature advantageously prevents an unauthorized or inadvertent user from turning off or canceling the notification system.  Mohler merely describes contacting a

sequence of numbers "until a call actually gets through" but does not disclose ensuring that an authorized user receives and responds to the notification message.

Consequently, Mohler does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

## *Dependent Claims 2-12, 17-20*

These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.

Additionally, some or all of these claims may also be allowable for additional independent reasons. For example, with respect to claim 8, Mohler fails to disclose a non-volatile memory device including a **flash memory**.

Consequently, Applicant respectfully requests the withdrawal of the rejections to these claims.

## *Independent Claim 27*

Applicant submits that Mohler does not anticipate this claim because it does not disclose the following elements as recited in this claim (with emphasis added):

- "automatically enabling a *plurality* of **notification messages** to be generated across *multiple* **user specified media** and serially sent to a **plurality of locations** in response to determining that the amount of space occupied by said one or more messages exceeds a predetermined threshold"

- "determining if a **user received** at least one notification message by *awaiting for a response* by the user"

As discussed above, Applicant respectfully submits that Mohler fails to disclose "a *plurality* of notification messages to be generated across *multiple* user specified media and serially sent to a plurality of locations." Mohler appears to describe only cascading telephone numbers, and not multiple user specified media messages. In addition, Mohler also fails to disclose "determining if **a user received** at least one notification message by *awaiting for a response* **by the user.**"

Consequently, Mohler does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

### *Dependent Claim 28*

This claim ultimately depends upon independent claim 27. As discussed above, claim 27 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, claim 28 may also be allowable for additional independent reasons.

# Obviousness Rejections

## Lack of Prima Facie Case of Obviousness (MPEP § 2142)

Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

## Based upon Mohler

The Examiner rejects claims 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Mohler. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### *Independent Claim 13*

The Examiner indicates (Action, p. 7) the following with regard to this claim:

> Mohler does not expressly state that his notification messages include changing the cadence of a message waiting light on a telephone.
>
> However, examiner takes official notice as changing the cadence of the message waiting light is an old and well-known method to notify the system administrator (Mohler 232 Fig.2) as changing the blinking light speed would enable the administrator to visually know something has changed within his messaging system without physically touching the system.

Applicant respectfully traverses the Examiner's assertion of official notice. It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. In re Zurko, 258 F.3d at 1385. As the court held in Zurko, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial

evidence support. Id. at 1385, 59 USPQ2d at 1697. While it may be appropriate to take official notice as fact the changing of the cadence of the message waiting light, common knowledge cannot be used to assume the obviousness of including this element. To the contrary, most patentable inventions comprise elements that are known in the art.

Moreover, even if it were appropriate to take official notice, the Examiner has failed to identify any articulated reasoning why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed. See, for example, KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007).

Even more importantly, the Examiner has failed to point out where in the cited references discloses the feature of changing the cadence of a message waiting light on a *telephone* **associated with the mailbox**. A system administrator, as described in Mohler itself (see Col. 4 lines 35-36), is notified (if at all) via an **administrative console 16**, and not **a telephone associated with a mailbox**. In Mohler, the administrative console 16 forms a part of a messaging system 9 that manages the compression rate selection of various mail boxes 15. The messaging system 9 cannot be equated to "**a telephone associated with the mailbox**," as recited in the claims at issue.

Further, as discussed above, nowhere in Mohler discloses, teaches or suggests "a *plurality* **of notification messages** to be generated **across** *multiple user specified media*." In addition, Mohler also fails to disclose, teach or suggest "wherein a notification message is sent to a subsequent one of the plurality of locations if a notification message has not been **received and responded to** *by an authorized user* at a previous one of the plurality of locations."

Therefore, Applicant respectfully asserts that the Examiner has not made the

necessary evidentiary showing to support the rejection of this claim, and asks the

Examiner to withdraw this rejection.


### *Independent Claim 14*

The Examiner indicates (Action, p. 7-8) the following with regard to this claim:

> Mohler does not expressly state that his notification messages include modifying
> a telephone dial tone.
> However, examiner takes official notice as modifying a telephone dial tone is an
> old and well-known method to notify the system administrator(Mohler 232 Fig.2) as it
> would enable the administrator to audibly hear something has changed within his
> messaging system without physically touching the system(e.g. distinctive ring patents).

Applicant respectfully traverses the Examiner's assertion of official notice. It is

never appropriate to rely solely on "common knowledge" in the art without evidentiary

support in the record, as the principal evidence upon which a rejection was based. In re

Zurko, 258 F.3d at 1385. As the court held in Zurko, an assessment of basic knowledge

and common sense that is not based on any evidence in the record lacks substantial

evidence support. Id. at 1385, 59 USPQ2d at 1697. While it may be appropriate to take

official notice as fact the modifying a dial tone, common knowledge cannot be used to

assume the obviousness of including this element. To the contrary, most patentable

inventions comprise elements that are known in the art.

Moreover, even if it were appropriate to take official notice, the Examiner has

failed to identify any articulated reasoning why a person of ordinary skill in the art would

have combined the prior art elements in the manner claimed. See, for example, KSR

International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007).

Even more importantly, the Examiner has failed to point out where in the cited references discloses the feature of modifying a dial tone of a **telephone associated with the mailbox**. As discussed previously, a system administrator, as described in Mohler itself (see Col. 4 lines 35-36), is notified (if at all) via an **administrative console 16**, and not a telephone associated with a mailbox. Further, as discussed above, nowhere in Mohler discloses, teaches or suggests "**a** *plurality* **of notification messages** to be generated **across** *multiple user specified media*." In addition, Mohler also fails to disclose, teach or suggest "wherein a notification message is sent to a subsequent one of the plurality of locations if said notification message has not been **received and responded to** *by an authorized user* at a previous one of the plurality of locations."

Therefore, Applicant respectfully asserts that the Examiner has not made the necessary evidentiary showing to support the rejection of this claim, and asks the Examiner to withdraw this rejection.


## Dependent Claims 15 and 16

These claims ultimately depend upon independent claim 14. As discussed above, claim 14 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.
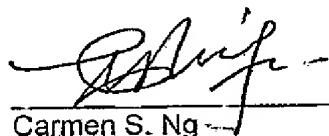
## Conclusion

In view of the foregoing, Applicants believe that all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Should the Examiner believe that a telephone conference would expedite prosecution of this application, please telephone or email me at your convenience.


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Respectfully submitted,

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